

REMARKS

The applicants hereby elect, with traverse, Species III. Claims 1-4, 6-9 and 11-13 all read on Species III.

It is respectfully requested that the requirement for election be withdrawn. According to MPEP Section 803, Restriction - When Proper, "If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions." The Examiner has not even contended that the examination of all of the claims would be a serious burden, and the applicants submit that it would not be a serious burden. In this regard, the applicants point out that the combination of features claimed in each of claims 1, 2, 6, 7 and 11, all of which read on Species III, are shown in one or more figures of Species I. Therefore, the inclusion of claims reading on Species I in the examination on the merits would not place any additional burden on the Examiner.

Furthermore, the Examiner's reason for indicating that Figs. 8 and 9 constitutes Species III, a species distinct and separate from Species I, appears to be more than disputable for at least the reason that L-shaped brackets 75 are shown in Fig. 2, which is part of Species I. Moreover, although the Examiner states that the second embodiment of the flashing is constructed of L-shaped brackets, the brackets are not part of the flashing. The brackets do not connect to a flexible skirt. Instead, for example, a leg 134a of a flashing member 134 connects to a flexible skirt 137.

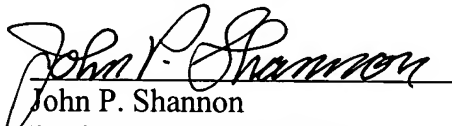
Serial No. 10/691,974
Docket No. IPB.010
Election and Amendment

Each of the independent claims 1, 6 and 11 has been amended to clarify that each of the second plurality of flashing members is connected with one of the first plurality of flashing members. New claims 14-16 make clear that the flexible flashing members need only be provided along the side members of the window frame, as shown in Figs. 3, 8, 10 and 11.

Examination and allowance of all of the claims is respectfully requested.

Respectfully submitted,

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